

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 872
CASE NO. 98-9
(Map Amendment @ 1901 – 1917 9th Street, NW –The Jackson's)

April 12, 1999

This Decision and Order arises out of a petition from the owners of 1901, 1903, 1905, 1907, 1909, 1911, 1913, 1915 and 1917 9th Street, NW. The petition requests the Zoning Commission for the District of Columbia (Commission) for a zoning change from R-4 to Arts/C-2-B for lots 800, 801, 802, 033, 825, 824, 804, 805, 806 and 807 in Square 393, pursuant to 11 DCMR 102.

PROCEDURAL HISTORY

The petition filed on March 16, 1998. Pursuant to 11 DCMR 3011.1, and by memorandum dated August 5, 1998, the District of Columbia Office of Zoning (OZ) referred the petition to the District of Columbia Office of Planning (OP) for a preliminary report and recommendation as to whether the petition warranted a public hearing. By memorandum (preliminary report) dated July 17, 1998, and received by the OZ on August 13, 1998, OP analyzed the petition and recommended that the Commission set it down for a public hearing.

On September 14, 1998, at its regular monthly meeting, the Commission considered the petition and the OP preliminary report and authorized the scheduling of a public hearing for the case. On November 23, 1998 the Commission held a public meeting on the petition in accordance with the provisions of 11 DCMR Subsection 3022.

On January 11, 1999 at its regular monthly meeting, the Zoning Commission reviewed and considered the OP hearing report dated January 5, 1999 and all post hearing submissions, and took proposed action to rezone lots 800, 801, 802, 033, 825, 824, 804, 805, 806 and 807, all in Square 393 from R-4 to Arts/C-2-B.

Pursuant to section 492 of the District of Columbia Home Rule Act, the proposed action of the Commission was referred to the National Capital Planning Commission (NCPC). NCPC by report dated March 4, 1999, found that the proposed map amendment would not adversely affect the Federal Establishment or other Federal interest in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

SUMMARY OF HEARING

At the public hearing the Commission heard the testimony of the petitioners' representative, OP, and seven residents in support of the petition. Advisory Neighborhood Commission (ANC) 1B testified in opposition to the petition.

The petitioners testified that the Uptown Arts-Mixed Use Overlay District (Arts Overlay) approved by the Commission in 1990 negatively impacted the properties by rezoning them to R-4. This zoning significantly reduced the marketability and allowable uses of the properties. The petitioners further argued that the Arts/C-2-B will enhance the block's Arts Overlay and serve to restore the nine properties, which are mostly commercial in character, to economic viability. It was further contended that the Arts/C-2-B designation would provide the entrepreneurs and businesses the flexibility to maintain harmony with the growth and changes of residents and businesses in the Shaw community.

OP, by memorandum dated July 17, 1998, and through testimony at the public hearing recommended that the nine properties be rezoned to Arts/C-2-B. OP noted that, in 1990, the properties were rezoned from C-M-1 to "R-4. OP agreed that the nine properties are currently used for predominately commercial purposes or are unused. OP believed the properties were unlikely to become residential without a major effort to bring them back to residential use. It did not consider waiting for residential revitalization of the commercial properties along 9th Street a viable option.

The ANC provided the Commission with a resolution adopted on October 14, 1998. Its representative testified that creating additional commercially zoned property in the area would destroy the buffer between commercial properties on U Street and the residential areas to the south of the Arts Overlay. The ANC further contended that residents have purchased, rented and renovated homes directly south of the commercial zones along U Street in reliance on the current zoning. The ANC expressed its concern that the rezoning would adversely impact the existing character of the neighborhood and noted that the subject properties are Victorian rowhouses which the ANC believes are most suited for residential use. Most of the buildings to the immediate south and across 9th Street have recently been renovated for residential use and the Odd Fellows building across T Street has been purchased to be the Maya Angelou Charter School for potentially at-risk students.

The witnesses in support of the application noted that the area, at present, is dangerous, dirty, and drug ridden. Past efforts to add residential housing only exacerbated the drug problem. The witnesses felt that commercial development was the best hope for improving the neighborhood.

FINDINGS OF FACT¹

1. The nine properties are contiguous and developed with row structures built in the 1900s. The site is located on the southern half of 1900 block of 9th Street, N.W., between T Street and Florida Avenue. Square 393 is bounded to the north by Florida Avenue, by T Street to south, by 9th Street to the west, and by 8th Street to the east. The site of the nine properties is currently zoned R-4.
2. The northern half of the square is designated on the Comprehensive Plan Generalized Land Use Map for mixed use, moderate density residential and moderate density commercial, and is in the Uptown Arts Special Treatment Area. The southern half of the square is generally designated for moderate density residential use [OP].
3. The site of the nine properties is currently zoned R-4.
4. The R-4 District permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, and maximum lot occupancy of 60 percent, and maximum height limit of three stories/ 40 feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit.
5. The Arts District is mapped in combination with the underlying commercial and mixed-use zones. It encourages development of a mixture of building uses, residential, retail, entertainment, and provides for integration of arts and related cultural support uses consistent with the nature and character of the Uptown Arts-Mixed Use District required by the Comprehensive Plan for the National Capital. [OP].
6. The C-2-B District permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio (FAR) of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of fifty feet, and a maximum lot occupancy of sixty percent for residential uses.

¹Findings based upon testimonial evidence will be followed by a bracket indicating the source.

7. The nine properties, which are the focus of this petition, are largely commercial in character; all but two have been used for commercial uses and thus are unsuitable for residential use [Petitioners].
8. The rezoning of the properties to R-4 in 1990 reduced their marketability and allowable uses [Petitioners].
9. The area becomes a historic district on December 3, 1998 [Petitioners].
10. The Westminster Neighborhood Association and Cardozo-Shaw Neighborhood Association voted to take no position on this petition [Petitioners].
11. The majority of property owners and residents nearest to the proposed rezoning (within 200 feet, including the residential properties across 9th Street from us) support the proposed rezoning and have signed a petition and written letters in support of the petition [Petitioners].

CONCLUSIONS OF LAW

1. Zoning the nine contiguous properties Arts/C-2-B will not have an adverse impact on the neighborhood and surrounding community. The recent Historic designation of the area will serve to control redevelopment of the properties.
2. The Zoning Commission must accord ANC-1B's position great weight. However, the ANC's position that the area was intended as a buffer between residential and commercial uses is not supported by any regulations nor did the ANC offer any evidence to support this position.
3. Arts/C-2-B zoning is appropriate for the site and will promote orderly development in conformity with the entirety of the District of Columbia Zoning Plan as set forth in the Zoning Regulations and Map of the District of Columbia.
4. The Zoning Commission believes that its decision in this case is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Map and the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.
5. The Commission is of the opinion that all issues raised at the public hearing were adequately addressed and that the Arts/C-2-B zoning carries out one of the purposes of the adjacent Arts Overlay, which is to encourage the commercial and cultural restoration and revitalization of the Shaw community.

DECISION

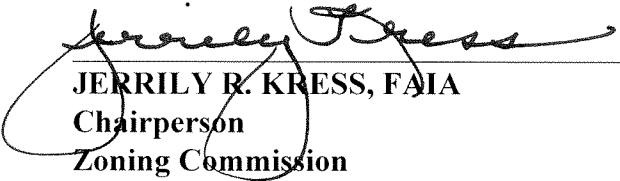
In accordance with the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the following amendment to the District of Columbia Zoning Map.


Change from R-4 to Arts/C-2-B for lots 800, 801, 802, 033, 825, 824, 804, 805, 806 and 807 all in Square 393, located at 1901, 1903, 1905, 1907, 1909, 1911, 1913, 1915 and 1917 9th Street, NW.

Vote of the Commission taken at the regular public meeting held on January 11, 1999, 3-0: (Anthony J. Hood, John G. Parsons, and Angel F. Clarens, to approve - Jerrily R. Kress and Herbert M. Franklin not voting, having not participated in the case.)

This order was adopted by the Zoning Commission at its regular public meeting on April 12, 1999, by vote of 3-0 (Anthony J. Hood and John G. Parsons to adopt, Angel F. Clarens, to adopt by absentee vote.

In accordance with 11 DCMR § 3028, this order is final and effective upon publication in the DC Register, that is, on _____.


JERRILY R. KRESS, FAIA
Chairperson
Zoning Commission


SHERI M. PRUITT-WILLIAMS
Interim Director
Office of Zoning

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